



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SLW

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,600	01/20/2004	Lendy Dunaway	DUN001-D1	9952
25962	7590	12/03/2004	EXAMINER	
SLATER & MATSIL, L.L.P. 17950 PRESTON RD, SUITE 1000 DALLAS, TX 75252-5793			PARADISO, JOHN ROGER	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/760,600

Applicant(s)

DUNAWAY, LENDY

Examiner

John R Paradiso

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The Non-Final Action mailed 10/20/2004 mistakenly contained only the draft version of the Action on the Merits. The present Action supercedes and replaces that action. The time period for response is re-started as of the mailing date of this present action. Examiner apologizes for any confusion.

Specification

2. The abstract of the disclosure is objected to because it does not describe the claimed method.

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3721

4. Claims 18-43 rejected under 35 U.S.C. 103(a) as being unpatentable over YU (US 5279841) in view of KALBERER ET AL (US 4830273).

YU discloses a method of forming a multiple-food container consisting of a first cylindrical section (3) defining a first compartment and a second cylindrical section (5) defining a second compartment. The first section is filled with a first food or beverage and the second section is filled with a second food or beverage. Each section is sealed and the sections separably coupled together by means of a modular connector (4) and the fittings therefor. (See YU column 3:50-4:9 and figures 2 and 6-6C.)

YU does not specifically disclose the seal on the second section being placed on the side or the lid being resealable.

KALBERER ET AL discloses a food container with a removable and / or resealable lid placed on the side of the container. (See KALBERER ET AL figures 1-4)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of YU by making the seal on the second section on the side of the section, in order to allow for gravity feed of the contents, when appropriate (such as for melted cheese, or other viscous liquid).

Regarding claim 21, Applicant is given Official Notice that the use of resealable "over-seals" is notoriously well known in the art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to seal the first section to preserve the freshness of the food therein and thereafter fit the first section with a resealable "over-seal" so that the package can be reclosed after the first consumer usage.

Art Unit: 3721

Regarding claim 22, Applicant is given Official Notice that the use of rotatable over-sleeves is well known in the packaging art and it would have been obvious to one of ordinary skill in the art at the time the invention was made to add such an over-sleeve to the combination of YU and KALBERER ET AL in order to increase the level of freshness for the consumer.

Reference Citations

5. The following prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- LINNER discloses a multiple-beverage container with openings in the sides.
- KOPP discloses a multiple-section container filled with different foods.
- FOHRMAN discloses a multiple-section container filled with different foods.
- KENDRICK discloses a multiple-section container filled with different foods.
- GRENELL discloses a multiple-section container with threads to attach the sections to one another.
- YANNUZZI, JR. disclose a container with an opening on the side.
- ADOLF ET AL disclose a container with an opening in the bottom to provide gravity feed of the contents.
- WRIGHT discloses a multiple-section container with threads to attach the sections to one another.
- TSUKADA ET AL discloses the use of a rotative seal around the cylindrical section of an article.
- GASPARRINI ET AL discloses the use of a rotative seal around a package.

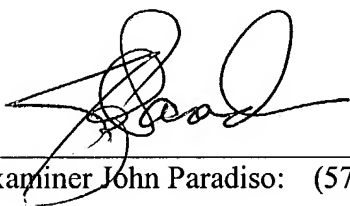
Art Unit: 3721

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (571) 272-4466

November 26, 2004

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 308-7135

TC 3700 Receptionist: (703) 308-1148

Fax (Official): (703) 872-9306